

FAS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Javier GARCIA-Rosales,

Defendant

Magistrate Docket No.

08 MJ 1959

COMPLAINT FOR VIOLATION OF:

**Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States**

The undersigned complainant, being duly sworn, states:

On or about **June 24, 2008** within the Southern District of California, defendant, **Javier GARCIA-Rosales**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 26th DAY OF JUNE, 2008

Louisa S. Porter
UNITED STATES MAGISTRATE JUDGE

FAS

CONTINUATION OF COMPLAINT:
Javier GARCIA-Rosales

PROBABLE CAUSE STATEMENT

On June 24, 2008, Border Patrol Agent J. Peterson and Border Patrol Agent E. Cuadra were assigned to Border Patrol duties near Dulzura, California. This area is located approximately five miles west of the Tecate, California Port of Entry, and approximately three miles north of the International Border Boundary between Mexico and the United States.

At approximately 4:05 p.m., Agent Cuadra and Agent Peterson responded to a citizen's call of three suspected aliens at the Barrett Cafe. Upon arriving to the café six individuals were observed. Agent Cuadra approached the group and identified himself as a United States Border Patrol Agent and conducted an immigration inspection. Agent Cuadra asked each of the individuals of what country they were citizens or nationals of and whether or not they were in possession of any documents allowing them to legally enter or remain in the United States. All six individuals, including one later identified as the defendant **Javier GARCIA-Rosales**, stated they were citizens of Mexico without any immigration documents allowing them to be in the United States legally. All six were arrested and transported to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **March 28, 2005** through **Nogales, Arizona**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights, which he stated and was willing to answer questions without having a lawyer present. The defendant freely admitted to being a citizen and national of Mexico without having any immigration documents that would allow him to be or remain in the United States legally. The defendant stated that his final destination was Los Angeles, California.